



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,972	04/20/2001	Eric Bodnar	LS/0019.00	4879

8791 7590 08/08/2007
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER

PHAN, HUY Q

ART UNIT	PAPER NUMBER
----------	--------------

2617

MAIL DATE	DELIVERY MODE
-----------	---------------

08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/839,972	Applicant(s) BODNAR ET AL.	
	Examiner Huy Q. Phan	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

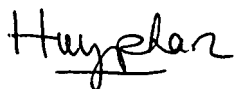

GEORGE ENG
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because applicant's arguments, see REMARKS, have been fully considered but they are not persuasive.

a) Applicant argued that Anderson fails to describe "a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and prior to associating the digital images with a particular cellular phone device"... Furthermore, even if Anderson were to temporarily store images during uploading, there is no indication that the Gateway Server of Anderson would provide the temporary storage". The examiner respectfully disagrees with the applicant's argument and the examiner contends that Anderson discloses the above claimed limitations. Anderson discloses evidently that "The gateway server 18, which communicates with the cameras 14 during image uploading" (see col. 4, lines 24-46). Since Gateway server, 18, is the first element in connection with the memory of the camera, 82a, through the internet all digital images that are uploaded must be temporarily saved in the gateway server, 18, till full upload is completed before they are transferred to the database, 20, of the photo-sharing service. Furthermore, Anderson also discloses that "The process assumes that a user has just acquired a digital camera 14 customized as described above, and has just taken the camera 14 out of its box in step 100. After taking pictures with the camera in step 102, the user may review the images in the camera's LCD screen and optionally select a set of images to upload to the photo sharing service 16 in step 104. The user then presses a "send" button on the camera in step 106 to upload the images" (see col. 9, lines 60-67). Apparently, the uploading and temporary storing process is happened prior the account information is received and validated and prior to associating the digital images with a particular cellular phone device. Thus, Anderson discloses the claimed limitations of "a buffer image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and prior to associating the digital images with a particular cellular phone device".

b) Applicants argued that "even if Anderson were to store images in the Gateway Server during the image upload process, Anderson would still fail to describe, "a buffered image storage module to temporarily store the digital images during uploading ... prior to associating the digital images with a particular cellular phone device"". The examiner respectfully disagrees. Since, Anderson discloses that "the camera is provided with default Internet service provider (ISP) information during manufacturing, including an ISP access number, and user ID and password (if required). The camera establishes connection with the default ISP in step 118 by dialing the preloaded access number, and by sending the preloaded user ID and password to the ISP" (col. 10, lines 15-28, for more details see cols. 10-12). Thus, Anderson teaches "a module allowing a user to specify a user name and password for the user account that has been automatically established, when online access to the data is predicated upon user input of the user specified user name and password". It is noted that the examiner relies upon reference, as a whole, to anticipate the instant claim, but reference's specific citations to pinpoint pertinent passages to aid in the understandings of the reference as applied to the particular claimed elements.

c) Applicant argued that "Yeh also fails to describe or suggest that "upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account". The examiner respectfully disagrees with the applicant's argument. Figure 4 of Yeh clearly shows a step (122), which allow the subscribe log on the website. The step (122) specifically requires a first user request to enter username and password. Since, Yeh teaches the claimed limitation of "upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account", it is believed that Anderson and Yeh disclose all the limitations of the independent claim 63 from which claims 64-71 depend. Thus, the combination of Anderson and Yeh can be used to establish prima facie obviousness for claims 64-71 because the references teach or suggest all claim limitations as required. See MPEP § 2143.03. Therefore, prima facie obviousness under 35 U.S.C. § 103 has been established..



Examiner: Phan, Huy Q.

Date: 08/03/2007